

State Board of Equalization

OPERATIONS MEMO

Confidential

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**SUBJECT: NEW SALES AND USE TAX \$50,000 SECURITY LIMIT
AND RELEASE OF SECURITY PROVISIONS INCLUDING
SURETY BOND EXONERATION REQUESTS**

I. General

Section 6701 of the Revenue and Taxation Code outlines the formula and limits for sales and use tax security which may be required to be placed with the Board. Effective January 1, 1997, Senate Bill No. 1827 increases to \$50,000 the amount which may be required and adds new provisions for the release of security placed with the Board.

II. Maximum Limit Increase

Effective January 1, 1997, the maximum amount of security is the lesser of the formulas to set security or \$50,000. The formula to determine the maximum, not greater than twice the average quarterly liability or three times the average monthly liability, will not change. Also, the formula for a person who has been given a notice of hearing to show cause why his or her permit should not be revoked or a person whose permit has been revoked will not change. That formula is not greater than three times the average quarterly liability or five times the average monthly liability.

III. Release of Security Provision

A new provision regarding the release of security was added to Section 6701, effective January 1, 1997. It reads as follows:

"Security held by the Board shall be released after a three-year period in which the person has filed all returns and paid all tax to the state or any amount of tax required to be collected and paid to the state within the time required."

The above includes all owner types. Page one of Form BOE-598-LZ, Notice of Security Requirements, will be revised to reflect this change.

[REDACTED]

III. Release of Security Provision**(Cont.)**

[REDACTED]

Personal guaranties and surety bonds are to be included in the new provision of Section 6701. As part of the security review process for accounts with a three-year good record, the release (termination) of guaranties and surety bonds may now be initiated by the Board with an immediate effective date. This change does not affect the law and current policy and procedure for guarantors and bonding companies who wish to terminate a guaranty or surety bond before the three year review. As outlined in the Compliance Policy and Procedures Manual, guarantors and sureties must notify the Board, in writing, of the intention to terminate the guaranty or surety bond. The cancellation is effective 30 days from receipt of the request.

Lists of accounts with security posted for three years, which appear to meet the criteria for refunding, are produced from the Security System each year in April and October. Section 6701 requires the refund process be given priority so that security refunds are issued without undue delay. To ensure that the refunding of security is handled in a timely manner, the Chief of Field Operations will include the refund process in each District Administrator's work plan goals.

Personal guaranty and surety bond cancellations that are Board initiated should be marked (i.e., highlighter, red line, circle, checkmark) on a copy of the three-year list. For each of the marked accounts, the requirement listed on the Security System must be ended. This is done by entering an "E" in the Action field on the SEC RQ screen. This action will also require an on-line comment (i.e., Board initiated release due to 3 year good record) to be recorded. The taxpayer should then be notified of the cancellation by sending a Form BOE-168-B or BOE-168-C. The marked list and a memorandum signed by the District Principal Compliance Supervisor or District Administrator must be sent to the Account Analysis and Control Section, MIC:29, to cancel the security record. Surety bonds will continue to appear on future lists unless the bond is exonerated. Use the SEC MS screen to record an exoneration. See the following section for surety bond exoneration procedures.



When the list is received by the Account Analysis and Control Section, the Security Technicians will update the cancellation information on the Security System. Only accounts marked will be canceled. The effective date of cancellation will be the date of the memorandum.

IV. Surety Bond Exoneration Procedures

The following procedures replace the procedures to process surety bond exoneration requests currently found in Operations No. 920 and C.P.P.M Section 410.025.

Surety bond exoneration requests which accompany payments from surety companies as a result of a demand on a surety bond will be processed by the Special Procedures Section.

Surety bond exoneration requests received in Headquarters will be sent to the Account Analysis and Control Section for an account number search only. When the district of control has been established, the request will be forwarded to that district for action. District offices may also receive requests directly from surety companies. The district office must confirm there are no accounts receivable or delinquent periods and no current or future audit activity is planned for the period in which the bond is in effect. Unilateral exonérations for surety bonds appearing on three-year security release lists may be processed after the preceding review is completed.

**V. Questions**

Questions regarding the subject of this operations memo should be directed to the Compliance Planning and Evaluation Section.

VI. Obsolescence

This operations memo will become obsolete when information contained within is incorporated into the Business Taxes Law Guide, the Compliance Policy and Procedures Manual, and the Compliance Policy and Management Guidelines.

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Distribution: 1-D